

# Rose & Kindel

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A grayling company

O: Materials Management & Local Assistance Program  
FR: Rand Martin on behalf of Safety-Kleen  
DA: September 3, 2010

We thank you for the opportunity to provide additional input on the Scopes of Work developed to execute the life cycle analysis required by SB 546 (2009).

We wish to make several recommendations of our own as well as respond to recommendations we anticipate will be presented by other stakeholders. All of our points are relative to the LCA Contractor SOW.

Generally, we find the SOW well-crafted and consistent with the spirit and the letter of SB 546. Clearly, the statute gives the stakeholders advisory and oversight roles but protects the integrity of the process and the final product by leaving the decision-making to the Contractor. The SOW ensures that collaboration occurs between stakeholders and contractors where appropriate and erects firewalls between the two when necessary.

## **Safety-Kleen Recommendations**

- Task 2a (Phase II) directs the Contractor to conduct data-gathering with the task completed, as projected, by March 2012. The tasks infer that the preponderance of data gathering is already completed in Phase I (“A primary goal of Phase I is to identify and collect a majority of the data necessary”) We are concerned that the SOW does not provide more direct guidance as to when the Phase 1 data-gathering should occur. We recommend that this SOW include clarification as to the timeframe for Phase 1 data-gathering as well as direction to the Contractor about how to adjust his data-gathering in the event of changes to the data needs and gaps identified in Task 1c.
- Task 2b states, “The Contractor will use the Stakeholder Project Recommendations Report as a basis to conduct the LCA.” We are concerned that the term “basis” overstates the authority of the stakeholder recommendations. In a plain reading of the term, the Contractor would be obligated to use the recommendations as the foundation and fundamental principles of his study, which we believe might infringe ISO standards (i.e., under ISO, the LCA contractor must ultimately be responsible for the LCA). Also, we assume the LCA contractor should not be obligated to follow a stakeholder recommendation that unknowingly or otherwise violates ISO standards. We suggest rewording the sentence so that it comports with the limited advisory authority the statute gives to the stakeholder body. One option might be: “The Contractor will use the Stakeholder Project Recommendations Report to inform the development and implementation of the LCA.”

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- The draft and final reports in Tasks 3bi and ii should include the Contractor's assumptions as well as a sensitivity analysis. The inclusion of both will help to validate the integrity of the LCA by 1) ensuring that any person can know and test against the Contractor's assumptions and 2) understanding the impact a change in the parameters may or may not have on the conclusions of the report.

### **Other Stakeholder Recommendations**

- While it is important for the stakeholders to have input into the development of the model for the LCA study, providing the operable model to stakeholders should not be a deliverable, in part because it was not contemplated by the statute. We believe that the integrity of the model can be assured if the Contractor, with the stakeholders' input, has the responsibility for developing the model independent from the stakeholder body. Allowing stakeholder input into the model provides for important transparency in the process without risking public skepticism of the final model and the final report. We fear that providing the model to stakeholders will enable stakeholders, if they so desire, to change the model as they see fit and will enable the stakeholders, if they so desire, to undermine the conclusions reached by the LCA.
- Neither an eco-efficiency analysis nor econometric modeling should be part of the LCA study. These elements would be beyond the scope of the statutory authority for the LCA. First, these elements are not typically included in a life cycle analysis. Second, Section 48651.5 of the Public Resources Code gives a third party consultant the responsibility for the LCA only (paragraph (A) of subdivision (b)), while the department is given express responsibility for evaluating specified regulatory requirements (paragraph (C) of subdivision (b)). Third, if the SOW were revised to include eco-efficiency analysis or econometric modeling, this would probably require the LCA contractor to increase its bid and increase the length of time required to complete the LCA. Finally, it is important to note that most LCA contractors are typically not econometric modelers.

Again, thank you for this opportunity. We look forward to the initiation of the stakeholder process.